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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,266	02/08/2001	Teresa Kishlock	001103	4095

26285 7590 08/06/2002

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EXAMINER

LAU, TUNG S

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 08/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/779,266

Applicant(s)

KISHLOCK ET AL.

Examiner

Tung S Lau

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. Claims 1-7, 9-12, and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over of lino (U.S. Patent 5,873,251) in view of Polcyn et al. (U.S. Patent 6,061,433).

lino discloses a method of calculating energy efficiency of energy consumers based on energy consumption history of weather data (col. 1, lines 44-67, col. 16, lines 24-31, col. 13-14, lines 65-9), reporting the results (fig. 5-6), an unique algorithm for calculation (fig. 10), efficiency measurement module (fig. 5).

lino does not disclose a generic import module for receiving consumer data, and the data is based on consumption histories and a computer readable medium, Polcyn disclose such application to increase the statistical model calculation (see Abstract), and a generic import module for receiving consumer data (fig. 1), a computer readable medium (fig1), an individual basis data (abstract),

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify lino to have the data is based on consumption histories and a generic import module for receiving consumer data and a computer readable medium taught by Polcyn in order to increase the statistical model calculation.

lino does not disclose a weather import module or usage of internet, direct mail, telephone, electronic mail, in-person visit and facsimile, but it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify lino to have the weather import module and usage of internet usage of internet, direct mail, telephone, electronic mail, in-person visit and facsimile in order to implement his application of calculating energy efficiency of energy consumers based on energy consumption history of weather data (Abstract) with different information gathering method.

As regard to claims 3-4, 6, 7, 11, 12, and 14, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify lino to have the use of aggregate basis for calculation since the object is to calculate the energy usage for than more person; to use cleaning algorithms in order to initialize data area for calculation; human intervention and hand calculations in order to calculate where computer is not available.

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b. Claims 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination lino as applied to claims above, and further in view of Mills et al. (U.S. Patent 4,391,826)

The lino combination disclose a method including the subject matter discussed above except the use of normal ratio in calculation and quality assurance, Mills disclose that application to improve quality (col.31, lines 40-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify lino to have the use of normal ratio in calculation taught by Mills in order to improve quality assurance.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 703-305-3309.


The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John S Hilten can be reached on 703-308-0719. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TL

July 30, 2002


JOHN S. HILTEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2300